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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,151	12/31/2003	Kevin K. Gold	11090	7904
26890	7590	09/21/2007		
JAMES M. STOVER NCR CORPORATION 1700 SOUTH PATTERSON BLVD, WHQ3 DAYTON, OH 45479			EXAMINER FADOK, MARK A	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,151

Applicant(s)

GOLD ET AL.

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/6/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4,8-12,16-24 and 28 rejected under 35 U.S.C. 102(e) as being anticipated by Schon (US 2005/0071234).

In regards to claim 1, Schon discloses a method for use in a physical store in communicating a message to a customer who is carrying one or more items for purchase, the method comprising: using electronic means, while the customer is moving through the store, to gather data identifying at least one of the items carried by the customer; applying a computer-implemented program to analyze the data and identify at least one alternative item that the customer might want to buy; preparing a message about the alternative item; and delivering the message to the customer while the customer is still in the store (Para 0095).

In regards to claim 2, Schon teaches a where using electronic means to gather data includes receiving a signal that originates with a device that is attached to one of the items carried by the customer (para 0087).

In regards to 3, Schon teaches a where using electronic means to gather data includes receiving a signal from an RFID tag attached to the item (para 0092).

In regards to claim 4, Schon teaches a where using electronic means to gather data includes receiving a signal from a transmitter located in a shopping basket that the customer is using to carry the items (para 0088).

In regards to claim 8, Schon teaches a obtaining data about at least one of the following things: weather in the area in which the store is located; an upcoming holiday;

fashion trends; a recipe; a shopping list made by the customer; a wish list made by the customer; a wish list made by someone for whom the customer is shopping; and providing this data to the computer-implemented program for use in analyzing the data gathered from the items carried by the customer (para 0086).

In regards to claim 21, Schon teaches a where the transmitter is located in a shopping basket that the customer is using to carry the items (FIG 6C).

In regards to claim 22, Schon teaches a where the message-delivery device includes a display monitor ((para 0087).

In regards to claim 23, Schon teaches a where the display monitor is mounted to a shopping basket that the customer is using to carry the items (FIG 6C).

In regards to claim 24, Schon teaches a where the display monitor includes an input mechanism that allows the customer to deliver input to the system (para 0087, RF reader).

In regards to claims 9-12,16-20 and 28, these are considered parallel claims to claim 1-4 and 8 and are rejected for the same rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3625

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7,13-15 and 25-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Schon (US 20050071234) in view of Official Notice.

In regards to claims 5-7,13-15 and 25-27, Schon teaches receiving information about products in inventory, but does not specifically mention that the examiner takes official notice that gathering information about previous purchases and making recommendations to a shopper along with providing substitutes for products requested that are out of stock was old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Schon gathering information about previous purchases to make recommendations to a shopper and providing substitutes for products requested that are out of stock, because this will assure that a customer does not forget an item that they usually select and that substitutes are provided, thus increasing revenue by providing an opportunity sell more product.

Second Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickson (US 2002/0170961).

In regards to claims 1-28, Dickson teaches all the features of the instant invention. For instance, Dickson discloses a method and system for providing shopping assistance to a customer. The system provides a shopping cart attachment device attached to a shopping cart operated by the customer, and RFID-tagged items. The shopping cart attachment device is configured to automatically detect items as they are placed in (or removed from) the shopping cart, to automatically scan the RFID-tagged item information, and to communicate the scanned item information to a central processing system. The central processing system identifies recommended additional purchase items associated with the items placed in the shopping cart based on the RFID-tagged item information, and displays this recommended information on the display device of the customer's wireless communication device such as a PDA, a two-way pager, a mobile phone, etc (abstract).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

Art Unit: 3625

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300

[Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Fadok

Primary Examiner